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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,048	03/11/2004	David J. Blair	32093-2	4980

7590 10/20/2008
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46205-5137

EXAMINER

KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
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3686

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10/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,048	Applicant(s) BLAIR, DAVID J.	
	Examiner VIVEK D. KOPPIKAR	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Status of the Application

1. Claims 1-22 have been examined in this application. This communication is the first action on the merits. The Information Disclosure Statement (IDS) filed on March 11, 2004 has also been acknowledged.

Claim Objections

2. Claim 22 is objected to because of the following informalities: The phrase "website type" is misleading and confusing. The Office recommends amending the claims so that "website type" is replaced by "website." Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 16-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed towards signals and signals do not fall into a statutory class of patentable subject matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12, 15-17 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Number 5,553,609 to Chen.

(A) As per claim 1, Chen teaches a method, comprising:
providing a server coupled to a computer network (Chen: Figure 7 and Col. 11, Ln. 20-36);
receiving a patient follow-up request from a practitioner (Chen: Col. 6, Ln. 37-44);
entering data in a patient information database maintained by the server in response to the patient follow-up request (Chen: Col. 6, Ln. 37-46);
assigning a patient contact to a health care monitor from the server over a computer network (Chen: Col. 6, Ln. 62-66);
receiving patient data over the computer network from the health care monitor about the patient contact (Chen: Col. 2, Ln. 60-Col. 3, Ln. 21 and Col. 7, Ln. 3-16);
storing the patient data in the patient information database (Chen: Col. 7, Ln. 2-11); and
sending the patient data to the practitioner from the patient information database (Chen: Col. 7, Ln. 22-25).

(B) As per claim 2, in Chen the health care monitor is a pharmacist (Note” The Office takes the position that the “other health care professionals” discussed in Chen

includes pharmacists) (Chen: Col. 6, Ln. 37-44).

(C) As per claim 3, in Chen the health care monitor is remotely located relative to the server, and said assigning includes designating several different patient contacts for the health care monitor from the server over the computer network (Chen: Col. 6, Ln. 62-66).

(D) As per claim 4, in Chen the health care monitor contacts the patient by telephone to perform the patient contact (Chen: Col. 6, Ln. 38-43).

(E) As per claim 5, in Chen there is a step of providing an administrative site coupled to the server by the computer network; providing at least a portion of the patient data to a program sponsor through the computer network (Chen: Col. 7, Ln. 3-16); and evaluating the patient data to determine patient compliance (Chen: Col. 7, Ln. 3-10).

(F) As per claim 6, Chen teaches a method of providing a server for storing a patient information database (Chen: Fig. 7 and Col. 11, Ln. 20-36) ;

generating an assignment of a patient contact to a health care monitor with the server (Chen: Col. 6, Ln. 62-66);

sending the assignment to the health care monitor through a computer network coupled to the server (Chen: Ln. 6, Ln. 62-66);

in response to the patient contact by the health care monitor, receiving patient data through the computer network from the health care monitor (Chen: Col. 2, Ln. 60-Col. 3, Ln. 21 and Col. 7, Ln. 3-16);

storing the patient data received from the health care monitor in the patient information database (Chen: Col. 7, Ln. 2-11); and

sending the patient data to a health care provider for the patient from the patient information database (Chen: Col. 7, Ln. 22-25).

(G) As per claim 7, Chen teaches that the generating is performed in response to a request from a health care provider (Chen: Col. 6, Ln. 30-43 and Col. 6, Ln. 62-66).

(H) As per claim 8, Chen teaches that the patient receives a prescription from the health care provider and the request from the health care provider is generated to determine compliance of the patient with the prescription (Chen: Col. 7, Ln. 37-44 and Col. 9, Ln. 40-48).

(I) As per claim 9, Chen teaches that the health care monitor is a pharmacist remotely located relative to the server (Chen: Col. 6, Ln. 30-43).

(J) As per claim 10, the method of Chen includes the pharmacist providing counseling to the patient regarding a drug treatment (Chen: Col. 9, Ln. 19-34 and Col. 9, Ln. 40-48).

(K) As per claim 11, the method of Chen includes entering a patient diagnosis and one or more drug codes into the patient information database, and designating the health care monitor to be a pharmacist (Chen: Col. 6, Ln. 30-43; Col. 7, Ln. 3-16; Col. 12, Ln. 54-Col. 13, Ln. 3 and Col. 14, Ln. 47-59) (Note: Chen teaches entering drug names into the patient information database which the Office takes the position as including the step of entering one or more drug codes into the patient information database.)

(L) As per claim 12, the method of Chen includes the health care monitor performing the patient contact by telephone (Chen: Col. 6, Ln. 30-43).

(M) As per claim 15, the method of Chen includes the health care provider adjusting

medical treatment of the patient in response to the patient data after sending (Chen: Col. 9, Ln. 19-34).

(N) As per claim 16, this claim is substantially similar to Claims 1 and 6 and is therefore rejected on the same as this claim, which is set forth above. The only difference is that this claim includes a computer accessible device and this is taught by Chen (Col. 1, Ln. 64-Col. 2, Ln. 28 and Col. 6, Ln. 22-50).

(O) As per claim 17, Chen teaches that the logic is in the form of programming instructions (Chen: Col. 5, Ln. 39-42).

(P) As per claims 19-22, these claims are substantially similar to claims 1-12 and 15-17 and are therefore rejected on the same basis as these claims, which is set forth above. The only difference is that these claims are directed towards a system and this is taught by Chen (Col. 6, Ln. 22-50).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, as applied to Claim 6, above, in view of Official Notice.

(A) As per claims 13-14, Chen does not teach that the method of Chen includes the health care monitor asking assigned questions of the patient during the patient contact nor does the method of Chen include the step of providing the patient data to a drug outcome study, however, the Office takes Official Notice that these features are well known in the health care industry and, at the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified Chen with these above aforementioned features with the motivation of having a means of ensuring that a medical protocol established for medical professionals was followed and also for having a means of gathering actual or real data for a drug outcome study.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, as applied to Claim 16, above, and in further view of Official Notice.

(A) As per claim 17, Chen does not teach wherein the logic is in the form of one or more signals transmittable over the computer network, however, the Office takes Official Notice that this feature is well known in the health care industry and, at the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified Chen with these above aforementioned features with the motivation of having a means of transmitting data without the use of wires.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Vivek D. Koppikar**, whose telephone number is **(571) 272-5109**, and whose facsimile number is (571) 273-5109.

Official replies to this Office action may now be submitted electronically by registered users of the EFS-Web system. Information on EFS-Web tools is available on the Internet at: <http://www.uspto.gov/ebs/portal/tools.htm>. An EFS-Web Quick-Start Guide is available at: <http://www.uspto.gov/ebs/portal/efs/quick-start.pdf>.

Alternatively, official replies to this Office action may still be submitted by any **one** of fax, mail, or hand delivery. **Faxed replies should be directed to the central fax at (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

Sincerely,

/VDK/
Examiner, Art Unit 3686
10/21/2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686